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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,687	06/21/2001	Steve O'Halloran		8654

7590 12/12/2006  
Steve O'Halloran  
7122 Quinnsfeld Way  
Greely, Ontario, KIP 4B6  
CANADA

EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/886,687

Applicant(s)

O'HALLORAN ET AL.

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7, 8, 33 and 35-48 is/are pending in the application.
- 4a) Of the above claim(s) 33 and 35-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a device with a transmitter, classified in class 710, subclass 106.
- II. Claims 33,38, drawn to a plural inventory device management scheme, classified in class 705, subclass 28.

The inventions are independent or distinct, each from the other because:

Inventions I are II related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as a distress signaling device where the transmitter transmits a signal if there is a problem. See MPEP § 806.05(d).

During a telephone conversation with Mr. Yuan on 12/7/06 a provisional election was made without traverse to prosecute the invention of I, claims 1-5,7,8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 33,38 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

The drawings were received on 6/21/01. These drawings are acceptable.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 7, 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended the independent claims to include "target device(s)" without reciting any relationship between it and the client computer.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flemming III.

Flemming III discloses an inventory agent (read as the general scheme of the shown in Fig. 1) for a component audit and inventory management system, the inventory agent comprising executable code for implementing:

a receiver (interface 103 of device 102), on a target device (target device is read generally as the device 102), including means for receiving an inventory-commence message from a client computer over a data network (means is read as execute

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program causing the boot operation which commences the interrogation e.g. the inventory commence message step 302 and the phantom line arrow shown in Fig. 1 is read as part of the data network connecting host 112, detector 108 and target device 102);

a detector (108) including means for collecting hardware and software inventory data relating to hardware and software installed on a the target device in response to commands included in the inventory-commence message (read as the determining software for determining whether software installation exists for device 102); and

a transmitter (network interface controller, col. 5 line 9) including means for transmitting from the target device to a host unit (server 112) of the component audit and inventory management system, through the data network (111), an inventory data message including the inventory data associated with the target device (is the driver 116 loaded or not or outdated?).

Re claims 2,3: the contingent authentication step of claims 2,3 is old and official notice is hereby taken thereof, but see, col.5 requires identifier for computer 108. The notice is hereby made final.

Re claims 4, 41: use of email is old in the art, official notice is hereby taken thereof. The notice is hereby made final.

Re claim 5: the boot up example in Flemming col. 4 is transparent to the user.

Re claims 7,8: the practice of store a log file is an old expedient in the computer art and official notice is hereby taken of it and of SQL.

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Any inquiry concerning this communication should be directed to PRIMARY EXAMINER

Joseph A. Fischetti at telephone number <sup>571 272 6780</sup> ~~(703) 305-0731~~.



JOSEPH A. FISCHETTI  
PRIMARY EXAMINER